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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/502,762

02/11/2000

Alan P. Sliski

PHLL-141

5635

7590

08/01/2005

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EXAMINER

QUASH, ANTHONY G

ART UNIT

PAPER NUMBER

2881

DATE MAILED: 08/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

58

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/502,762		SLISKI ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Anthony Quash		2881	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 3/19/04 amendment.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-20 is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

Applicants' amendment, filed 3/19/04 has overcome the 112 rejections listed in the previous office action dated, 12/19/02.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,4 are rejected under 35 U.S.C. 102(b) as being anticipated by Sisson [5,012,114]. As per claims 1,4, Sisson [5,012,114] discloses a radiation shield for use with an applicator (pipe) system for a radiation source, the radiation applicator system including an applicator head (fig. 2, pipe opening) defining a surface have a predefined shape and a surface contour, the radiation shield (12) comprising a substantially thin material that is flexible enough to conform to the shape of at least a portion of the surface contour of the applicator head. In addition, it discloses at least a portion of the material being characterized by an adhesiveness sufficient to allow the radiation shield to be coupled to the applicator head. See Sisson [5,012,114] abstract, fig. 2, col. 1 line 10-15,50-65, col. 2 line 10-15,20-30,50-65, col. 3 lines 35-68, col. 4 lines 1-10, 35-40, and col. 5 lines 25-40.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sisson [5,012,114]. As per claim 2, Sisson [5,012,114] teaches all aspects of the claim except for explicitly stating that at least one radiation blocking or absorbing material be chosen from the group including tungsten, gold platinum, rhodium, iridium, tantalum and barium oxide. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have at least one radiation blocking or absorbing material be chosen from the group including tungsten, gold platinum, rhodium, iridium, tantalum and barium oxide, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In addition, it was well known in the art at the time the invention was made to use tungsten as a material for blocking/absorbing radiation.

Claims 3,5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sisson [5,012,114] in view of Nomikos [5,153,900]. As per claim 3, Sisson [5,012,114] teaches all aspects of the claim except for explicitly stating that the material includes at least one material chosen from the group including urethane, silicone polyamide, and polystyrene. Nomikos [5,153,900] does teach that it was known to use polyurethane (which the examiner recognizes as belong to the group of urethane products) as shield

Art Unit: 2881

for radiation. See Nomikos [5,153,900] col. 7 lines 20-35. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the biocompatible material include at least one material chosen from the group including urethane, silicone polyamide, and polystyrene, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

As per claim 5, Sisson [5,012,114] in view of Nomikos [5,153,900] teach all aspects of the claim except for explicitly stating the biocompatible radiation shield being formed from tungsten filled urethane material including approximately 60 to 90 percent tungsten by weight. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the biocompatible radiation shield being formed from tungsten filled urethane material including approximately 60 to 90 percent tungsten by weight, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In addition, it was well known in the art at the time the invention was made to use tungsten as a means for attenuating x-rays.

As per claim 6, Sisson [5,012,114] in view of Nomikos [5,153,900] teach all aspects of the claim except for explicitly stating that the biocompatible radiation shield be formed from a tungsten filled urethane material including approximately 80 percent tungsten by weight. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the biocompatible radiation shield be formed from a tungsten filled urethane material including approximately 80 percent tungsten by

Art Unit: 2881

weight, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

### ***Allowable Subject Matter***

The following is a statement of reasons for the indication of allowable subject matter: Claims 7-20 remain allowable over the prior art of record for the reasons listed in the previous office action.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 2881

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Quash whose telephone number is (571)-272-2480. The examiner can normally be reached on Monday thru Friday 9 a.m. to 5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Lee can be reached on (571)-272-2477. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A. Quash  
*AQ*  
7/27/05

*Nikita Wells*  
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PRIMARY EXAMINER  
07/28/05